

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SHAWN WOODALL,

Plaintiff,

vs.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

Civil No. 10cv1890 BTM (BGS)

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
STAY OF ACTION**

(ECF No. 109)

Plaintiff has filed a Request for Appointment of Counsel (ECF No. 109) in which he requests the appointment of counsel to assist him in prosecuting this civil action. The Constitution provides no right to appointment of counsel in a civil case unless an indigent litigant may lose his physical liberty if he loses the litigation. *Lassiter v. Dept. of Social Services*, 452 U.S. 18, 25 (1981). Nonetheless, under 28 U.S.C. § 1915(e)(1), district courts are granted discretion to appoint counsel for indigent persons. This discretion may be exercised only under “exceptional circumstances.” *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of exceptional circumstances requires an evaluation of both the ‘likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.’ Neither of these issues is dispositive and both must be viewed together before reaching a decision.” *Id.* (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

1 The Court **DENIES** Plaintiff's request without prejudice, as neither the interests of justice
2 nor exceptional circumstances warrant appointment of counsel at this time. *LaMere v. Risley*,
3 827 F.2d 622, 626 (9th Cir. 1987); *Terrell*, 935 F.2d at 1017.

4 In addition, Plaintiff seeks a stay of this action until July 9, 2012, "due to [Plaintiff's]
5 circumstances." (ECF No. 109 at 1.) However, at this time, Defendants have not yet appeared
6 in the action and there are no pending Motions. There is no basis upon which a stay at this time
7 is necessary. Thus, Plaintiff's request for a stay of this action to July 9, 2012, is **DENIED**.

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9 DATED: June 4, 2012

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11 BARRY TED MOSKOWITZ, Chief Judge
12 United States District Court
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